

12 Civ. 8937 (LAP)

V.

05 Cr. 673 (LAP)

United States of America

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC#  
DATE FILED: 8/26/20

Motion For Leave To Amend 28 USCS §2255

Dr. Rafiq Sabir filed a timely §2255 Motion 30 November 2012 and now asks the Court's leave to amend by adding Ground Seven as described below.

GROUND SEVEN:

Dr. Sbir was convicted in June 2007 of: Count One, conspiring to and Count Two, attempting to provide material support to al-Qaeda in violation of 18 USCS §2339B. On 28 November 2007 Dr. Sabir was sentenced to a general sentence of 300 months. See Sentencing Transcript p.47 lines 1,2. (Excerpt hereto attached.) The maximum for each count is 180 months. See 18 USCS §2339B. The Court must render a separate sentence on each count. See USSG §5 1.2. Therefore the 300 month sentence was imposed illegally and in violation of the law. See United States v. Maynagh, 566 F.2d 799 (1st Cir. 1977); United States v. Moriarty, 429 F.3d 1012 (11th Cir. 2005); United States v. Ward, 626 F. 3d 179 (3d Cir. 2010).

A challenge to a sentence imposed illegally can never be forfeited or time-barred. United States v. Zakrzewski, 462 Fed. Appx. 421 (4th Cir. 2012); United States v. Zuno-Arce, 25 F.Supp. 2d 1087, 1120-22 (CD Cal. 1998).

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Sentence

1 out by Mr. Wilford, it is my intention to impose a sentence of  
2 300 months. It is my intention to impose a period of  
3 supervised release of two years on each count to run  
4 concurrently. It is my intention to impose the recommended  
5 special conditions of supervised release of providing requested  
6 financial information and submission to a search.

7 It is not my intention to impose a fine on the  
8 findings of the presentence report, which I agree with, that  
9 the defendant is not able to address a fine. It is my  
10 intention to impose the mandatory \$200 special assessment.

11 Counsel, is there any reason such a sentence should  
12 not be imposed?

13 MS. RODGERS: No, your Honor.

14 MR. WILFORD: Other than we've already argued, your  
15 Honor, no.

16 THE COURT: Yes, sir, thank you.

17 Very well, then. Dr. Sabir, you are sentenced, sir,  
18 to a period of 300 months incarceration. Following that time,  
19 you'll spend a period of two years on supervised release.  
20 During that period, you will comply with all of the standard  
21 terms and conditions of supervised release. Among them are  
22 that you not commit another federal, state or local crime, you  
23 not illegally possess a controlled substance, and you not  
24 possess a firearm or other destructive device.

25 In addition, sir, during that period, and in addition

CERTIFICATE OF SERVICE:

I, Rafiq Sabir, certify under the penalty of perjury, that a true and correct copy of the foregoing has been placed in the FCI, mailbox, in Danbury, CT, 06811, on this 21 day of August, year 2014, in accordance with the prison mailbox rule. Houston v. Lack, 487 US. 266(1988). This enclosed motion is deemed filed upon placement in the prison mail room, and mailed to the following:

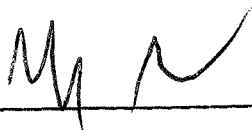
United States Attorney

United States Courthouse Annex

One Saint Andrews Plaza

New York, New York 10007-1701

So Served,

A handwritten signature in black ink, appearing to be 'M. N.', is written over a horizontal line.

UNSWORN DECLARATIONS UNDER PENALTY OF PERJURY

I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed 21 August 2014

Name: Rafiq Sabir

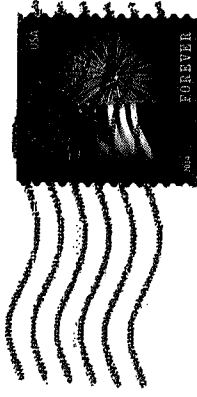
Reg: 55312-066

Address: FCI Danbury Route 37, Danbury, Connecticut, 06811

RAFIQ SABIR #55312 066  
Federal Correctional Institution  
Route 37  
Danbury, Connecticut 06811

WESTCHESTER NY 105

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ATTORNEY

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